UNITED STATES PATENT AND TRADEMARK OFFICE

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10/648,622	08/25/2003	Jon Claude Russell Bennett	D03056 03	4358

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EXAMINER
HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
2464	

NOTIFICATION DATE	DELIVERY MODE
01/07/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _14 September 2009_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-41_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _34-37_ is/are allowed.

6)☒ Claim(s) _1-3,6,10-33 and 38-40_ is/are rejected.

7)☒ Claim(s) _4,5,7-9 and 41_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claim 1 is objected to because of the following informalities: "a measurement test of the link" in line 10 should be replaced with "said measurement test of the link", see line 4. Appropriate correction is required.

2.   Claims 10, 18, 39 and 40 are objected to because of the following informalities: An acronym, IPMP, is used without its proper definition first, See claim 1. Appropriate correction is required.

3.   Claim 18 is objected to because of the following informalities: "an IPMP echo request packet" in line 2 should be replaced with "said IPMP echo request packet", see line 1. Appropriate correction is required.

4.   Claim 38 is objected to because of the following informalities: "a measurement test of the link" in line 15 should be replaced with "said measurement test of the link", see line 8. Appropriate correction is required.

5.   Claim 38 is objected to because of the following informalities: "the first network device" in line 12 should be replaced with "the first remote network device", see line 1. Appropriate correction is required.

6.   Claim 39 is objected to because of the following informalities: "a measurement host" in line 12 should be replaced with "the measurement host", see line 3. Appropriate correction is required.

7.   Claim 40 is objected to because of the following informalities: "an IPMP echo

request packet" in line 6 should be replaced with "said IPMP echo request packet", see

line 1. Appropriate correction is required.

8.   Claim 41 is objected to because of the following informalities: "a first remote

network device" in line 3 should be replaced with "the first remote network device", see

line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

10.   Claims 10-33, 39 and 40 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

11.   Regarding claim 10, the phrase "receiving, by a second remote network device,

the IPMP redirected echo reply packet" in line 3 renders the claim indefinite because it

is unclear who is receiving the IPMP redirected echo reply packet. A measurement host

sends an IPMP measurement test request packet to a first remote network device. The

first remote network device sends an IPMP redirected echo request packet to the

second remote network device. The second remote network device sends the IPMP

redirected echo reply packet to the first remote network device. And finally, the first

remote network device sends the information in the IPMP redirected each reply packet

(the result of a measurement test on the link between the first and second remote

network devices) to the measurement host, see Figure 4 and Figure 7. Accordingly, the

first remote network device, not the second remote network device, is the one which

receives the IPMP redirected echo reply packet. See also the dependent claim 12

which recites "returns the IPMP redirected echo reply packet to the second remote

network device" in line 2. See also similar limitations in claim 39.

12.   Regarding claim 10, the phrases "receiving, by a second remote network device,

the IPMP redirected echo reply packet" in line 3 and "receiving said IPMP redirected

echo reply packet" in line 10 renders the claim indefinite because it is unclear there are

two receiving IPMP redirected echo reply packet steps or just one receiving step. For

purpose of examination, the examiner understood the limitations as "transmitting, by a

second remote network device, the IPMP redirected echo reply packet ......; receiving,

by the first remote network device, said IPMP redirected echo reply packet;". See also

the dependent claim 12 which recites "returns the IPMP redirected echo reply packet to

the second remote network device" in line 2. See also similar limitations in claim 39.

13.   Claim 18 recites the limitation "the IPMP measurement test request packet" in

line 4. There is insufficient antecedent basis for this limitation in the claim.

14.   Claim 20 recites the limitation "the time stamp" in line 2. There is insufficient

antecedent basis for this limitation in the claim.

15.   Regarding claim 21, the phrases "additional details" in line 1 renders the claim

indefinite because it is unclear whether it is the same as "further details" in claim 20 line

2 or not. For purpose of examination, the examiner understood the limitations as "said

further details".

16.   Claims 22 and 23 recite the limitation "said additional details" in line 1. There is insufficient antecedent basis for this limitation in the claim. For purpose of examination, the examiner understood the limitations as "said further details".

17.   Regarding claim 23, the phrases "further details about the time stamp" in line 2 renders the claim indefinite because it is unclear whether it is the same as "further details about the time stamp" in claim 20 line 2 or not.

18.   Claim 26 recites the limitation "the network device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

19.   Claim 39 recites the limitation "the second remote network device" in line 3. There is insufficient antecedent basis for this limitation in the claim.

20.   Claim 39 recites the limitation "the measurement host" in line 3. There is insufficient antecedent basis for this limitation in the claim.

21.   Regarding claim 39, the phrases "receiving the IPMP redirected echo reply packet" in line 7 and "receiving said IPMP redirected echo reply packet" in line 14 renders the claim indefinite because it is unclear there are two receiving IPMP redirected echo reply packet steps or just one receiving step. For purpose of examination, the examiner understood the limitations as "transmitting, by the second remote network device, the IPMP redirected echo reply packet ......; receiving, by the first remote network device, said IPMP redirected echo reply packet;".

22.   Claim 40 recites the limitation "the IPMP measurement test request packet" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

23.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

24.   Claim 1-3, 6, 10, 14, 38 and 39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kanazawa et al. (US Pub.2003/0053419) in view of McGregor (IPMP

draft-mcgregor-ipmp-00.txt).

Regarding claim 1 and 38, Kanazawa teaches a method for performing a remote

test of a link between a first remote network device and a second remote network

device by a measurement host comprising: transmitting (step 212 in Figure 5) from the

measurement host (1, 2 in Figure 4) to the first remote network device (3A, 5A in Figure

4) an performance measurement packet requesting a measurement test of the link

between the first remote network device (3A, 5A in Figure 4) and the second remote

network device (3B, 5B in Figure 4), wherein the measurement host (1, 2 in Figure 4) is

remote from both the first remote network device 3A, 5A and the second remote

network device 3B, 5B; receiving by the first remote network device said performance

measurement test request packet (step 212 in Figure 5); and performing a

measurement test of the link between the first remote network device and the second

remote network device (steps 213-217 in Figure 5). Kanazawa, however, does not

teach the performance measurement packet as Internet Protocol Measurement Protocol

(IPMP) packet. McGregor teaches the performance measurement packet as IPMP

packet. It would have been obvious to one skilled in the art to modify Kanazawa to use

IPMP packet to measure performance as taught by McGregor in order to avoid denial of

service attack (page 1 Abstract section third paragraph).

Regarding claim 2, Kanazawa teaches sending (step 213 in Figure 5) an

performance measurement packet to the second remote network device 3B, 5B by the

first remote network device 3A, 5A.

Regarding claim 3, Kanazawa teaches sending (step 216 in Figure 5) a result of

the measurement test to the measurement host (1, 2 in Figure 4) from the first remote

network device 3A, 5A.

Regarding claim 6, Kanazawa teaches constructing (Step 213 in Figure 5) a

performance measurement packet for the second remote network device 3B, 5B.

Regarding claim 10 and 39, Kanazawa teaches a method for processing an

performance measurement reply packet, said method comprising: transmitting (step 215

in Figure 5), by a second remote network device 3B, 5B, the performance measurement

reply packet resulting from an performance measurement packet sent (step 213 in

Figure 5) by a first remote network device 3A, 5A to the second remote network device

3B, 5B in response to an performance measurement packet previously received (step

212 in Figure 5) by the first remote network device 3A, 5A and sent from a

measurement host (1, 2 in Figure 4), wherein the measurement host (1, 2 in Figure 4) is

remote from both the first remote network device 3A, 5A and the second remote

network device3B, 5B; receiving said performance measurement reply packet (step 215

in Figure 5); and forwarding (step 216 in Figure 5) information included in the

performance measurement reply packet to the measurement host (1, 2 in Figure 4).

Kanazawa, however, does not teach the performance measurement packet as Internet

Protocol Measurement Protocol (IPMP) packet. McGregor teaches the performance

measurement packet as IPMP packet. It would have been obvious to one skilled in the

art to modify Kanazawa to use IPMP packet to measure performance as taught by

McGregor in order to avoid denial of service attack (page 1 Abstract section third

paragraph).

Regarding claim 14, Kanazawa teaches creating a performance measurement

redirect reply packet (step 215 in Figure 5).

Allowable Subject Matter

25.   Claims 4, 5 and 7-9 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

26.   Claims 18 and 40 would be allowable if rewritten or amended to overcome the

rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

27.   Claims 11-13, 15-17 and 19-33 would be allowable if rewritten to overcome the

rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to

include all of the limitations of the base claim and any intervening claims.

28.   Claims 34-37 are allowed.

29.   Claim 41 would be allowable if rewritten or amended to overcome the

objection(s), set forth in this Office action.

Response to Arguments

30.   Applicant's arguments with respect to claim 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENCE HAN whose telephone number is (571)272-3158. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/   /C. H./
Supervisory Patent Examiner, Art Unit 2464   Examiner, Art Unit 2464